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August 13, 1999 OFFICE OF THE CHAIRMAN

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Chairman William Kennard
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: *Ex Parte Filing* in Cases WT 99-217; CC 96-98

Dear Chairman Kennard:

We write to respectfully request that the Federal Communications Commission (FCC) reject the proposed rule in the captioned matters. Based upon our experience, we believe local control over such issues as zoning, building codes and rights of way management is imperative to ensure the health, safety and welfare of our local communities are adequately protected.

We do not believe that Congress has delegated to the FCC the authority to preempt state and local building codes, zoning ordinances, environmental laws or other rules and regulations affecting local communities. Zoning and building codes are purely matters of state and local jurisdiction that may not be preempted. For example, building codes are enacted in part for engineering and safety reasons, which vary by region, weather patterns and building type. Buildings in some areas of the country are built for earthquakes without concern for snow while others must focus on snow with without concern for earthquakes.

Similarly, zoning laws are matters of local concern. They protect and promote the public health, safety and welfare, ensure compatibility of uses, preserve property values and the character of our communities. Local governments must be able to regulate the numbers, types, locations, size and aesthetics of certain property uses to achieve the City's legitimate police power goals. The correct application of zoning principles is substantially dependent upon local conditions, which vary greatly from municipality to municipality.

Moreover, the local management of rights of way is essential to protect the public health, safety and welfare. Cities are continuously barraged with requests to work in the rights of way, which has resulted in numerous cables, wires, pipes, and other facilities being laid in city rights of way. In order to ensure public safety, local governments must be allowed to retain jurisdiction, especially since these facilities may transport hazardous materials such as petroleum.

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Finally, we were surprised to learn that the proposed rule would affect state and local taxes. We do not believe the FCC has the authority to affect state and local taxes just as it does not have the authority to affect Federal taxes.

In summary, our experience demonstrates that local control of these matters has not unduly burdened or impeded technology or our economy's development. Accordingly, we do not believe there is a need or a basis for the Federal government to preempt local jurisdiction over inherently local matters such as zoning, building codes and rights of way management.

Based upon the foregoing reasons, the City of Bellingham, Washington respectfully requests that the FCC reject the captioned proposed rules and take no action regarding preempting local government's control of rights of way and taxes.

Very truly yours,



Mark Asmundson
Mayor, City of Bellingham

cc: Jack Garner (Director, Public Works)
Felix Anderson (Director, ITSD)
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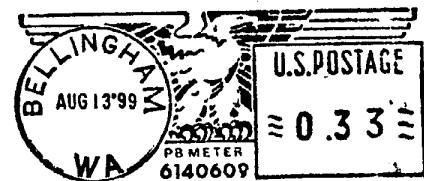
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